

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CASE NO. 22-50495-PWB
)
HIEP NGOC TRAN,) CHAPTER 7
aka NGOC-HIEP THI TRAN,)
)
Debtor.)

**MOTION FOR AN ORDER AUTHORIZING THE SALE OF
PROPERTY OF THE BANKRUPTCY ESTATE**

COMES NOW S. Gregory Hays, as the Chapter 7 Trustee (the “**Trustee**”) of the bankruptcy estate (the “**Bankruptcy Estate**”) of Hiep Ngoc Tran (the “**Debtor**”) and files this Motion for an Order Authorizing the Sale of Property of the Bankruptcy Estate (the “**Sale Motion**”), pursuant to 11 U.S.C. § 363(b) and Fed. R. Bankr. P. 2002(a)(2) and 6004(a), other than in the ordinary course of business, and respectfully shows the Court as follows:

Background

1. Debtor filed a voluntary petition constituting an order for relief under Chapter 7 on January 19, 2022 (the “**Petition Date**”), initiating Case No. 22-50495-PWB (the “**Bankruptcy Case**”).
2. On or about the Petition Date, Trustee was appointed to the Bankruptcy Case as interim Chapter 7 trustee under 11 U.S.C. § 701(a)(1).
3. The meeting of creditors was held and concluded on February 23, 2022, and thereafter, Trustee became the permanent Chapter 7 trustee, under 11 U.S.C. § 702(d).

a. The Vehicle

4. On her *Schedule A/B: Assets – Real and Personal Property* [Doc. No. 1 at page 15 of 51], Debtor scheduled her sole ownership interest in a 2019 Nissan Pathfinder with

approximately 29,000 miles (the “**Vehicle**”) with a value of \$35,000.00.

5. Debtor’s interest in the Vehicle is property of the Bankruptcy Estate. See 11 U.S.C. § 541 (2020).

b. Exemptions, Alleged Liens, Interests, and Encumbrances on or against the Vehicle

6. On her *Schedule C: The Property You Claim as Exempt* [Doc No. 1 at page 20 of 51], Debtor scheduled two exemptions in the Vehicle of \$5,000.00 under O.C.G.A. § 44-13-100(a)(3) and \$9,300.00 under O.C.G.A. § 44-13-100(a)(6).

7. On her *Schedule D: Creditors Who Have Claims Secured by Property* [Doc. No. 1 at page 22 of 51], Debtor scheduled no claims secured by an interest in the Vehicle.

8. The Debtor scheduled a \$4,273.00 secured claim by Citibank, N.A. against ‘All Debtor’s real and personal property.’ Upon information and belief, the original title to the Vehicle is in the possession of the Debtor in a safe deposit box at IC Bank [Doc. No. 1 at page 12 of 51] and not in the possession of Citibank so under Georgia Law, Citibank’s lien does not attach to the Vehicle.

b. The Proposed Sale

9. Rather than Trustee attempting to sell, collect, and liquidate the Vehicle, Debtor would like to purchase the Vehicle from the Bankruptcy Estate.

10. The Debtor obtained and produced to the Trustee a vehicle appraisal from CarMax showing a value of \$31,000.00 (the “**Appraisal**”). After negotiations and consideration of the Appraisal, the cost to sell through other means and the Debtor’s \$14,300.00 in exemptions, the Trustee and Debtor have agreed to a sale price of \$16,000.00 to be paid by the Debtor to the Trustee for the Bankruptcy Estate’s interest in the Vehicle (the “**Interest**”).

11. In his business judgment, Trustee believes \$16,000.00 to be a fair price for the Interest calculated as follows:

CarMax Appraisal	\$31,000.00
Cost to Sell (at least)	(\$700.00)
O.C.G.A. § 44-13-100(a)(3)	(\$5,000.00)
O.C.G.A. § 44-13-100(a)(6)	<u>(\$9,300.00)</u>
	(\$14,300.00)
Bankruptcy Estate Interest	<u><u>\$16,000.00</u></u>

12. The Interest shall be deemed abandoned by the Trustee upon the later of: (a) Trustee's receipt in full of the \$16,000.00¹ payment from the Debtor; or (b) the Order approving this Sale Motion becoming final.

13. Trustee seeks authority from the Court to sell the Vehicle "as is" to the Debtor.

**Request for Authority to Sell the Property of the Bankruptcy Estate
Pursuant to 11 U.S.C. § 363(b)**

14. Section 363 of the Bankruptcy Code authorizes a trustee "after notice and a hearing . . . [to] use, sell, or lease, other than in the ordinary course of business, property of the estate . . ." 11 U.S.C. § 363(b)(1). Section 105 of the Bankruptcy Code grants this Court the authority to "issue any order, process, or judgment necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

15. The proposed sale to the Debtor is the product of arms' length negotiations between the Trustee and Debtor.

¹ Debtor has delivered a \$16,000.00 check to Trustee.

16. The sale will allow Trustee to make a meaningful distribution to the holders of timely filed general unsecured claims in this Bankruptcy Case and avoid the costs and risks of marketing and selling the Interest.

WHEREFORE, Trustee prays that the Court enter an order (a) granting the Sale Motion to sell the Interest to the Debtor, (b) authorizing Trustee to take actions reasonably necessary to effectuate the sale; and (c) granting such other and further relief as is just and proper.

Respectfully submitted this 20th day of May, 2022.

/s/ S. Gregory Hays
S. Gregory Hays
Chapter 7 Trustee

Hays Financial Consulting, LLC
2964 Peachtree Road, NW, Ste. 555
Atlanta, GA 30305
(404) 926-0060

CERTIFICATE SERVICE

This is to certify that I, S. Gregory, am over the age of 18 and that on this day I have caused to be served a copy of the foregoing *Motion for an Order Authorizing the Sale Property of the Bankruptcy Estate* by depositing in the United States mail a copy of same in a properly addressed envelope with adequate postage affixed thereon to assure delivery, as indicated, to:

Office of the United States Trustee
362 Richard B. Russell Bldg.
75 Ted Turner Drive, SW
Atlanta, GA 30303

Citibank, N.A.
Jane Fraser, CEO
701 East 60th Street
North Sioux Falls, SD 57104

E. L. Clark
Clark & Washington, LLC
Bldg. 3
3300 Northeast Expwy.
Atlanta, GA 30341

Hiep Ngoc Tran
308 Wickley Way
Woodstock, GA 30188

This 20th day of May, 2022.

/s/ S. Gregory Hays, Trustee
S. Gregory Hays, Trustee